

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Eric A. Perry,

Petitioner,

v.

Criminal Case No. 00-50071

United States of America,

Honorable Sean F. Cox

Respondent.

OPINION & ORDER DENYING
MOTION FOR RELIEF FROM JUDGMENT

In this action, which was originally assigned to the Honorable Paul V. Gadola, Defendant Eric A. Perry (“Perry”) pleaded guilty to charges of conspiracy to distribute cocaine; possession with intent to distribute cocaine; possession with intent to distribute marijuana; and being a felon in possession of a firearm. On November 26, 2003, Judge Gadola sentenced Perry to 240 months on Counts I and II and 120 months on Counts III and IV,¹ to be served concurrently. (Docket Entry No. 43). Perry did not file a direct appeal.

On August 19, 2004, Perry filed a motion to vacate his sentence. (Docket Entry No. 47). After Perry amended that motion, and filed numerous other related submissions, the Court ultimately denied the motion, in its entirety, on July 17, 2007. (Docket Entry No. 77).

On April 28, 2008, Perry filed a “Memorandum and Declaration in Support of Petitioner’s Motion Declaring Judgment Void Due to Defect in the Integrity of the Court, Under Rule 60(b)(4) Federal Rules of Civil Procedure” (Docket Entry No. 79).

¹Count IV was dismissed.

The Government filed a response in opposition to the Motion on May 29, 2008. (Docket Entry No. 81).

This action was reassigned to this Court on June 11, 2008. (Docket Entry No. 82).

In his April 28, 2008 motion, Perry asserts that the judgment in this criminal action is void. Perry asserts that the federal statute conferring jurisdiction on the United States District Courts is unconstitutional because it was not properly enacted and therefore his conviction, like all federal criminal convictions after 1948, is void.

The Court has considered the arguments in Perry's motion and finds them to be without merit. *See e.g., United States v. Brunshtein*, 545 F.Supp.2d 357, 360 (S.D. N.Y. 2008) ("Title 18 of the United States Code was validly enacted") (citing *United States v. Whitlock*, 663 F.2d 1094, 1108 n.3 (D.C. Cir. 1980) and *United States v. Watson*, 570 F.2d 282, 284 (8th Cir. 1987)).

Accordingly, IT IS ORDERED that Perry's Motion for Relief from Judgment (Docket Entry No. 79) is DENIED.

IT IS SO ORDERED.

S/ Sean F. Cox
United States District Judge

Date: July 2, 2008

I hereby certify that on July 2, 2008, a copy of the foregoing document was served upon counsel of record by electronic means and by First Class Mail upon:

Eric Allen Perry #31078-039
Federal Medical Center
P. O. Box 4000
Rochester, Minnesota 55903

S/ J. Hernandez
Case Manager